

1

S.4

2 An act relating to reducing crimes of violence associated with juveniles and
3 dangerous weapons

4 The House proposes to the Senate to amend the bill by striking out all after
5 the enacting clause and inserting in lieu thereof the following:

6 Sec. 1. 33 V.S.A. § 5204 is amended to read:

7 § 5204. TRANSFER FROM FAMILY DIVISION OF THE SUPERIOR

8 COURT

9 (a) After a petition has been filed alleging delinquency, upon motion of the
10 State's Attorney and after hearing, the Family Division of the Superior Court
11 may transfer jurisdiction of the proceeding to the Criminal Division of the
12 Superior Court if the child had attained 16 years of age but not 19 years of age
13 at the time the act was alleged to have occurred and the delinquent act set forth
14 in the petition is a felony not specified in subdivisions (1)-(12) of this
15 subsection or if the child had attained 12 years of age but not 14 years of age at
16 the time the act was alleged to have occurred, and if the delinquent act set forth
17 in the petition was any of the following:

18 (1) arson causing death as defined in 13 V.S.A. § 501 or an attempt to
19 commit that offense;

20 (2) assault and robbery with a dangerous weapon as defined in
21 13 V.S.A. § 608(b) or an attempt to commit that offense;

1 (3) assault and robbery causing bodily injury as defined in 13 V.S.A.

2 § 608(c) or an attempt to commit that offense;

3 (4) aggravated assault as defined in 13 V.S.A. § 1024 or an attempt to
4 commit that offense;

5 (5) murder as defined in 13 V.S.A. § 2301 and aggravated murder as
6 defined in 13 V.S.A. § 2311 or an attempt to commit either of those offenses;

7 (6) manslaughter as defined in 13 V.S.A. § 2304 or an attempt to
8 commit that offense;

9 (7) kidnapping as defined in 13 V.S.A. § 2405 or an attempt to commit
10 that offense;

11 (8) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407 or an
12 attempt to commit that offense;

13 (9) maiming as defined in 13 V.S.A. § 2701 or an attempt to commit
14 that offense;

15 (10) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2) or an
16 attempt to commit that offense;

17 (11) aggravated sexual assault as defined in 13 V.S.A. § 3253 and
18 aggravated sexual assault of a child as defined in 13 V.S.A. § 3253a or an
19 attempt to commit either of those offenses; or

20 (12) burglary into an occupied dwelling as defined in 13 V.S.A.
21 § 1201(c) or an attempt to commit that offense.

1 (b)(1) The State’s Attorney of the county where the juvenile petition is
2 pending may move in the Family Division of the Superior Court for an order
3 transferring jurisdiction under subsection (a) of this section at any time prior to
4 adjudication on the merits. The filing of the motion to transfer jurisdiction
5 shall automatically stay the time for the hearing provided for in section 5225 of
6 this title, which stay shall remain in effect until such time as the Family
7 Division of the Superior Court may deny the motion to transfer jurisdiction.

8 (2)(A)(i) The Family Division of the Superior Court shall hold a hearing
9 under subsection (c) of this section to determine whether jurisdiction should be
10 transferred to the Criminal Division under subsection (a) of this section if the
11 delinquent act set forth in the petition is:

12 (I) a felony violation of 18 V.S.A. chapter 84 for selling or
13 trafficking a regulated drug;

14 (II) human trafficking or aggravated human trafficking in
15 violation of 13 V.S.A. § 2652 or 2653;

16 (III) defacing a firearm’s serial number in violation of 13
17 V.S.A. § 4024; or

18 (IV) straw purchasing of firearm in violation of 13 V.S.A.
19 § 4025; and

20 (ii) the child had attained 16 years of age but not 19 years of age at
21 the time the act was alleged to have occurred.

1 (B) A transfer hearing required by this subdivision (2) shall occur
2 without delay and as soon as practicable, and the State shall have the burden of
3 proof. The court decision to hold the transfer hearing shall automatically stay
4 the time for the hearing provided for in section 5225 of this title, which stay
5 shall remain in effect until such time as the Family Division of the Superior
6 Court may deny the motion to transfer jurisdiction.

7 (c) Upon the filing of a motion to transfer jurisdiction under ~~subsection (b)~~
8 subdivision (b)(1) of this section, or in cases where a hearing is required under
9 subdivision (b)(2) of this section, the Family Division of the Superior Court
10 shall conduct a hearing in accordance with procedures specified in subchapter
11 2 of this chapter to determine whether:

12 (1) there is probable cause to believe that the child committed the
13 charged offense; and

14 (2) public safety and the interests of the community would not be served
15 by treatment of the child under the provisions of law relating to the Family
16 Division of the Superior Court and delinquent children.

17 (d) In making its determination as required under subsection (c) of this
18 section, the court may consider, among other matters:

19 (1) the maturity of the child as determined by consideration of the
20 child's age, home, and environment; emotional, psychological, and physical
21 maturity; and relationship with and adjustment to school and the community;

1 (2) the extent and nature of the child’s prior record of delinquency;

2 (3) the nature of past treatment efforts and the nature of the child’s
3 response to them, including the child’s mental health treatment and substance
4 abuse treatment and needs;

5 (4) the nature and circumstances of the alleged offense, including
6 whether the alleged offense was committed in an aggressive, violent,
7 premeditated, or willful manner;

8 (5) the nature of any personal injuries resulting from or intended to be
9 caused by the alleged act;

10 (6) the prospects for rehabilitation of the child by use of procedures,
11 services, and facilities available through juvenile proceedings;

12 (7) whether the protection of the community would be better served by
13 transferring jurisdiction from the Family Division to the Criminal Division of
14 the Superior Court;

15 (8) the youth’s residential housing status;

16 (9) the youth’s employment and educational situation;

17 (10) whether the youth has complied with conditions of release;

18 (11) the youth’s criminal record and whether the youth has engaged in
19 subsequent criminal or delinquent behavior since the original charge;

20 (12) whether the youth has connections to the community; and

1 (13) the youth’s history of violence and history of illegal or violent
2 conduct involving firearms.

3 (e) A transfer under this section shall terminate the jurisdiction of the
4 Family Division of the Superior Court over the child only with respect to those
5 delinquent acts alleged in the petition with respect to which transfer was
6 sought.

7 (f)(1) The Family Division, following completion of the transfer hearing,
8 shall make findings and, if the court orders transfer of jurisdiction from the
9 Family Division, shall state the reasons for that order. If the Family Division
10 orders transfer of jurisdiction, the child shall be treated as an adult. The State’s
11 Attorney shall commence criminal proceedings as in cases commenced against
12 adults.

13 (2) Notwithstanding subdivision (1) of this subsection, the parties may
14 stipulate to a transfer of jurisdiction from the Family Division at any time after
15 a motion to transfer is made pursuant to subsection (b) of this section. The
16 court shall not be required to make findings if the parties stipulate to a transfer
17 pursuant to this subdivision. Upon acceptance of the stipulation to transfer
18 jurisdiction, the court shall transfer the proceedings to the Criminal Division
19 and the child shall be treated as an adult. The State’s Attorney shall commence
20 criminal proceedings as in cases commenced against adults.

1 provided that jurisdiction may be transferred in accordance with this chapter
2 and chapter 52A of this title, unless the State's Attorney files the charge
3 directly as a youthful offender petition in the Family Division:

4 (i) a violation of a condition of release as defined in 13 V.S.A.
5 § 7559 imposed by the Criminal Division for any of the offenses listed in
6 subsection 5204(a) of this title; or

7 (ii) a violation of a condition of release as defined in 13 V.S.A.
8 § 7559 imposed by the Criminal Division for an offense that was transferred
9 from the Family Division pursuant to section 5204 of this title.

10 (B) This subdivision (2) shall not apply to a proceeding that is the
11 subject of a final order accepting the case for youthful offender treatment
12 pursuant to subsection 5281(d) of this title.

13 * * *

14 Sec. 3. 18 V.S.A. § 4252 is amended to read:

15 § 4252. ~~PENALTIES FOR DISPENSING OR SELLING~~ KNOWINGLY

16 PERMITTING SALE OF REGULATED DRUGS

17 IN A DWELLING

18 (a) No person shall knowingly permit a dwelling, building, or structure
19 owned by or under the control of the person to be used for the purpose of
20 illegally ~~dispensing or~~ selling a regulated drug.

1 (c) It shall not be a violation of this section if the person who owns or
2 controls the dwelling, building, or structure takes action to address the
3 unlawful activity.

4 Sec. 5. 13 V.S.A. § 4024 is added to read:

5 § 4024. DEFACING OF FIREARM'S SERIAL NUMBER

6 (a) A person shall not knowingly possess a firearm that has had the
7 importer's or manufacturer's serial number removed, obliterated, or altered.

8 (b) A person who violates this section shall be imprisoned not more than
9 five years or fined not more than \$50,000.00, or both.

10 (c) As used in this section:

11 (1) "Firearm" has the same meaning as in section 4017 of this title.

12 (2) "Importer" means any person engaged in the business of importing
13 or bringing firearms or ammunition into the United States for purposes of sale
14 or distribution.

15 (3) "Manufacturer" means any person engaged in the business of
16 manufacturing firearms or ammunition for purposes of sale or distribution.

17 Sec. 6. 13 V.S.A. § 4025 is added to read:

18 § 4025. STRAW PURCHASING OF FIREARMS

19 (a) A person shall not purchase a firearm for, on behalf of, or at the request
20 of another person if the purchaser knows or reasonably should know that the
21 other person:

1 (1) is prohibited by state or federal law from possessing a firearm;

2 (2) intends to carry the firearm while committing a felony; or

3 (3) intends to transfer the firearm to another person who:

4 (A) is prohibited by state or federal law from possessing a firearm; or

5 (B) intends to carry the firearm while committing a felony.

6 (b) It shall not be a violation of this section if the person purchased the
7 firearm as a result of threats or coercion by another person.

8 (c) A person who violates this section shall be imprisoned not more than
9 five years or fined not more than \$50,000.00, or both.

10 (d) As used in this section, “firearm” has the same meaning as in section
11 4017 of this title.

12 Sec. 7. 13 V.S.A. § 4017a is added to read:

13 § 4017a. FUGITIVES FROM JUSTICE; PERSONS SUBJECT TO FINAL

14 RELIEF FROM ABUSE OR STALKING ORDER; PERSONS

15 CHARGED WITH CERTAIN OFFENSES; PROHIBITION ON

16 POSSESSION OF FIREARMS

17 (a) A person shall not possess a firearm if the person:

18 (1) is a fugitive from justice;

19 (2) is the subject of a final relief from abuse order issued pursuant to

20 15 V.S.A. § 1104;

1 (3) is the subject of a final order against stalking issued pursuant to
2 12 V.S.A. § 5133 if the order prohibits the person from possessing a firearm;

3 or

4 (4) against whom charges are pending for:

5 (A) carrying a dangerous weapon while committing a felony in
6 violation of section 4005 of this title;

7 (B) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
8 subchapter 1; or

9 (C) human trafficking or aggravated human trafficking in violation of
10 section 2652 or 2653 of this title.

11 (b) A person who violates this section shall be imprisoned not more than
12 two years or fined not more than \$1,000.00, or both.

13 (c) As used in this section:

14 (1) “Firearm” has the same meaning as in section 4017 of this title.

15 (2) “Fugitive from justice” means a person who has fled to avoid
16 prosecution for a crime or to avoid giving testimony in a criminal proceeding.

17 Sec. 8. 13 V.S.A. § 4005 is amended to read:

18 § 4005. WHILE COMMITTING A ~~CRIME~~ FELONY

19 (a) Except as otherwise provided in 18 V.S.A. § 4253, a person who carries
20 a dangerous or deadly weapon, openly or concealed, while committing a felony

1 shall be imprisoned not more than five years or fined not more than \$500.00,
2 or both.

3 (b)(1) Carrying a firearm while committing a felony in violation of this
4 section may be considered a violent act for the purposes of determining
5 whether a person is eligible for bail under section 7553a of this title.

6 (2) An offense that is a felony rather than a misdemeanor solely because
7 of the monetary value of the property involved shall not be considered a
8 violent act under this subsection.

9 Sec. 9. 33 V.S.A. § 5117 is amended to read:

10 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

11 (a) Except as otherwise provided, court and law enforcement reports and
12 files concerning a person subject to the jurisdiction of the court shall be
13 maintained separate from the records and files of other persons. Unless a
14 charge of delinquency is transferred for criminal prosecution under chapter 52
15 of this title or the court otherwise orders in the interests of the child, such
16 records and files shall not be open to public inspection nor their contents
17 disclosed to the public by any person. However, upon a finding that a child is
18 a delinquent child by reason of commission of a delinquent act that would have
19 been a felony if committed by an adult, the court, upon request of the victim,
20 shall make the child's name available to the victim of the delinquent act. If the

1 victim is incompetent or deceased, the child's name shall be released, upon
2 request, to the victim's guardian or next of kin.

3 * * *

4 (d) Such records and files shall be available to:

5 (1) State's Attorneys and all other law enforcement officers in
6 connection with record checks and other legal purposes; and

7 (2) the National Instant Criminal Background Check System in
8 connection with a background check conducted on a person under 22 years of
9 age pursuant to 18 U.S.C. § 922(t)(1)(C) and 34 U.S.C. § 40901(I).

10 * * *

11 Sec. 10. 18 V.S.A. § 13 is added to read:

12 § 13. COMMUNITY VIOLENCE PREVENTION PROGRAM

13 (a)(1) There is established the Community Violence Prevention Program to
14 be administered by the Department of Health in consultation and collaboration
15 with the Chief Prevention Officer, the Department of Public Safety, the
16 Director of Violence Prevention, the Executive Director of Racial Equity, and
17 the Council for Equitable Youth Justice. The Program shall work with
18 communities to implement innovative, evidence-based, and evidence-informed
19 programs addressing causes of youth and community violence.

20 (2) Grants awarded pursuant to this section shall be at the discretion of
21 the Commissioner of Health. Preference shall be given to communities where

1 there has been an increase in violence associated with illegal drug sales and
2 trafficking, gang activity, or human trafficking. Grants shall:

3 (A) build on and complement existing programs addressing the
4 causes of youth and community violence; and

5 (B) be for the purpose of funding efforts that address violence and
6 associated community harm using approaches that may include the following:

7 (i) best available research evidence;

8 (ii) experiential evidence;

9 (iii) contextual evidence;

10 (iv) lived experience of impacted communities;

11 (v) trauma-responsive programming; and

12 (vi) other qualitative or quantitative factors that may inform the
13 decision-making of the Commissioner.

14 (b)(1) A Vermont municipality or nonprofit organization may submit an
15 application for a Community Violence Prevention Program grant to the
16 Commissioner of Health. Grants awarded under this section shall be for the
17 purpose of funding innovative, evidence-based, or evidence-informed
18 approaches to reducing violence and associated community harm.

19 (2) The Commissioner of Health, in consultation with the Department of
20 Public Safety and the Executive Director of Racial Equity, shall develop and
21 publish guidelines for the award of Community Violence Prevention Program

1 grants. The guidelines shall include a focus on increasing community capacity
2 to implement approaches for human services, public health, and public safety
3 collaboration to address root causes of community violence and substance use
4 through data-driven projects.

5 (c) The Community Violence Prevention Program shall collect data to
6 monitor youth and community violence and its related risk and protective
7 factors and to evaluate the impact of prevention efforts and shall use the data to
8 plan and implement programs. The Program shall use monitoring and
9 evaluation data to track the impact of interventions.

10 (d)(1) The Commissioner of Health, in consultation and collaboration with
11 the Chief Prevention Officer, the Department of Public Safety, the Director of
12 Violence Prevention, the Executive Director of Racial Equity, and the Council
13 for Equitable Youth Justice, shall report on the Community Violence
14 Prevention Program:

15 (A) on or before September 1, 2023 and December 1, 2023 to the
16 Joint Legislative Justice Oversight Committee; and

17 (B) on or before January 15, 2024, and annually on that date
18 thereafter, to the Senate and House Committees on Judiciary, the Senate
19 Committee on Health and Welfare, the House Committee on Human Services,
20 and the House Committee on Health Care.

21 (2) The report required by this subsection shall include:

- 1 (A) a complete description of the Community Violence Prevention
2 Program grant application and award process;
3 (B) guidelines for the award of grants developed under subdivision
4 (b)(2) of this section;
5 (C) the number of applications submitted and grants awarded, and the
6 amount of each grant awarded;
7 (D) detailed descriptions of the programs and purposes for which all
8 grants were awarded;
9 (E) the impacts and outcomes of funded projects; and
10 (F) descriptions of any grants applied for or awarded.

11 Sec. 11. APPROPRIATION

12 (a) Grants awarded from State funds to the Community Violence
13 Prevention Program established by 18 V.S.A. § 13 shall be dependent upon the
14 amount of the appropriation.

15 (b) The Department of Health is authorized to seek and accept grant
16 funding for the purpose of supporting the Community Violence Prevention
17 Program to supplement State appropriations.

18 (c) If funding is available for the Community Violence Prevention Program
19 from federal grants or legal settlements related to drug use or criminal activity:

20 (1) such federal or settlement funds shall be utilized first for the
21 Program; and

1 the progress made toward implementing the requirement of Secs. 12 and 13 of
2 this act that the Raise the Age initiative take effect on July 1, 2024.

3 Sec. 15. SENTENCING COMMISSION REPORT

4 (a) On or before December 15, 2023, the Vermont Sentencing Commission
5 shall report to the Joint Legislative Justice Oversight Committee and the
6 Senate and House Committees on Judiciary on whether the offenses for which
7 transfer from the Family Division to the Criminal Division is permitted under
8 33 V.S.A. § 5204(a) should be expanded to include:

9 (1) first degree arson as defined in 13 V.S.A. § 502 or second degree
10 arson as defined in 13 V.S.A. § 503;

11 (2) stalking as defined in 13 V.S.A. § 1062;

12 (3) domestic assault as defined in 13 V.S.A. § 1042, first degree
13 aggravated domestic assault as defined in 13 V.S.A. § 1043, and second degree
14 aggravated domestic assault as defined in 13 V.S.A. § 1044;

15 (4) selling or dispensing a regulated drug with death resulting as defined
16 in 18 V.S.A. § 4250;

17 (5) using a firearm while selling or dispensing a drug as defined in
18 18 V.S.A. § 4253;

19 (6) carrying a dangerous or deadly weapon while committing a felony as
20 defined in 13 V.S.A. § 4005;

1 (7) lewd or lascivious conduct as defined in 13 V.S.A. § 2601 or lewd or
2 lascivious conduct with a child as defined in 13 V.S.A. § 2602;

3 (8) eluding a police officer with serious bodily injury or death resulting
4 as defined in 23 V.S.A. § 1133(b);

5 (9) willful and malicious injuries caused by explosives as defined in
6 13 V.S.A. § 1601, injuries caused by destructive devices as defined in
7 13 V.S.A. § 1605, or injuries caused by explosives as defined in 13 V.S.A.
8 § 1608;

9 (10) grand larceny as defined in 13 V.S.A. § 2501 or larceny from the
10 person as defined in 13 V.S.A. § 2503;

11 (11) operating vehicle under the influence of alcohol or other substance
12 with either death or serious bodily injury resulting as defined in 23 V.S.A.
13 § 1210(f) and (g);

14 (12) careless or negligent operation resulting in serious bodily injury or
15 death as defined in 23 V.S.A. § 1091(b);

16 (13) leaving the scene of an accident with serious bodily injury or death
17 as defined in 23 V.S.A. § 1128(b) or (c);

18 (14) a hate-motivated crime as defined in 13 V.S.A. § 1455;

19 (15) conspiracy as defined in 13 V.S.A. § 1404;

- 1 (16) a violation of an abuse prevention order as defined in 13 V.S.A.
2 § 1030 or violation of an order against stalking or sexual assault as defined in
3 12 V.S.A. § 5138;
- 4 (17) trafficking a regulated drug in violation of 18 V.S.A. chapter 84,
5 subchapter 1;
- 6 (18) human trafficking or aggravated human trafficking in violation of
7 13 V.S.A. § 2652 or 2653; or
- 8 (19) aggravated stalking as defined in 13 V.S.A. § 1063(a)(3).
- 9 (b) The report required by this section shall also consider whether burglary
10 into an occupied dwelling as defined in 13 V.S.A. § 1201(c) should continue to
11 be included in the offenses for which transfer from the Family Division to the
12 Criminal Division is permitted under 33 V.S.A. § 5204(a) or whether an
13 alternate or redefined version of the offense should be included.
- 14 Sec. 16. SEVERABILITY
- 15 As set forth in 1 V.S.A. § 215, the provisions of this act are severable, and if
16 a court finds any provision of this act to be invalid, or if any application of this
17 act to any person or circumstance is invalid, the invalidity shall not affect other
18 provisions or applications that can be given effect without the invalid provision
19 or application.
- 20 Sec. 17. EFFECTIVE DATE
- 21 This act shall take effect on passage.